REMARKS

Reconsideration of this application in view of the above amendments and following remarks is respectfully requested. Claims 1 and 14-32 are now pending. Claim 1 has been amended. Claims 14-32 are new.

Priority

This application is a continuation of U.S. Application No. 09/117,717 filed March 2, 1999 ("the parent application"), now issued as U.S. Patent No. 6,664,261 ("the '261 patent"). The parent application, in turn, is the U.S. national stage (§ 371) of PCT/EP97/0459 filed January 30, 1997 ("the PCT application"). The PCT application, in turn, claims priority from two U.S. provisional applications; namely, (1) U.S. Provisional No. 60/011,279 filed February 7, 1996, and (2) U.S. Provisional No. 60/027,688 filed October 8, 1996.

All of the above information was included in the Application Data Sheet (ADS) filed with this application. The only difference is that the parent application issued after the filing date of this application – that is, the '261 patent issued on December 16, 2003, while this application was filed on September 19, 2003.

Accordingly, and in order to reflect the subsequent issuance of the '261 patent, Applicants have amended the specification by adding a cross-reference section before the section entitled "Background of the Invention".

Rejection Under Judicially Created Doctrine of Obviousness-Type Double Patenting

Claim 1 stands rejected under the judicially created doctrine of obviousness-type double patenting as obvious over issued claim 1 of the '621 patent.

As an initial matter, Applicants have amended claim 1 to parallel the text of issued claim 1 of the '621 patent, but with a more limited scope of substituents. Further, new claims 14-32 have been added to more specifically recite certain aspects of the disclosed invention. Support for these new claims may be found throughout the specification as originally filed, and does not constitute addition of new matter.

Turning to the outstanding rejection, Applicants note that the Manual of Patent Examining Procedure §804.02, citing *Quad Environmental Technologies Corp. v. Union Sanitary District*, F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991), states that the "filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection." Given that fact, and the fact that the term of any patent issuing from the present application, absent any patent term adjustment, is the same as that of the '261 patent, Applicants enclosed herewith a Terminal Disclaimer to obviate this rejection.

Rejection Under 35 U.S.C. §103(a)

Claim 1 stands rejected under 35 U.S.C. §103(a) as obvious over Inoue et al. (U.S. Patent No. 5,688,949 or JP 3-204877) ("Inoue"). As discussed above, claim 1 has been amended to parallel issued claim 1 of the '261 patent, but with a more limited scope of substituents. Since the Examiner has previously acknowledged patentability of claim 1 over Inoue in granting the '621 patent, Applicants submit that amended claim 1 of this application is patentable over Inoue for the same reasons. Further since new claims 14-32 depend directly or indirectly from claim 1, and thus contain all the limitations thereof, they are similarly patentable over Inoue.

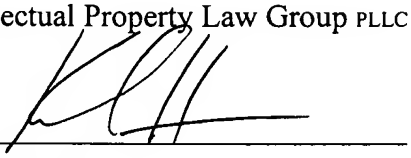
Accordingly, Applicants submit that claims 1 and 14-32 are patentable over the references of record, and request that this ground of rejection be withdrawn.

Conclusion

In view of the above amendments and remarks, allowance of claims 1 and 14-32 is respectfully requested. A good faith effort has been made to place this application in condition for allowance. However, should any further issue require attention prior to allowance, the Examiner is requested to contact the undersigned at (206) 622-4900 to resolve the same.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC



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Enclosure: Terminal Disclaimer over U.S. Patent No. 6,664,261

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